

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 6/17/2021
--

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DE QUAN LU, DIAN JIN JIANG, QI GUI
GUO, AND WEI QIN ZHU,

Plaintiffs,

v.

RED KOI, INC d/b/a RED KOI ORGANIC
SUSHI LOUNGE, LIN LIN, C&H FORTUNE,
INC., YING CHEN, JING XIN DONG, AND
XIAOHUA ZHU A/K/A KEN ZHU,

Defendants.
-----X

17-CV-7291 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS on September 25, 2017, Plaintiff's counsel, Aihong You, filed a Complaint in this matter on behalf of De Quan Lu, Dian Jin Jiang, Qi Gui Guo, and Wei Qin Zhu, Dkt. 1;

WHEREAS on May 14, 2021, Ms. You filed a motion to withdraw as Plaintiffs' attorney, Dkt. 152;

WHEREAS following Court orders, Ms. You supplemented her motion with additional information about her attempted communication with each Plaintiff, Dkts. 158, 161, 162;

WHEREAS Ms. You reported to the Court that two Plaintiffs told her they wish to discontinue the lawsuit and that two others failed to respond to her repeated attempted contact, *id.*; and

WHEREAS on June 17, 2021, counsel for the parties appeared for a hearing on this issue;

IT IS HEREBY ORDERED that Dian Jin Jiang claims are dismissed with prejudice for failure to prosecute. At the hearing, Ms. You confirmed that Mr. Jiang had clearly indicated to her on at least two separate occasions that he wishes to discontinue this lawsuit. Given Mr. Jiang's unequivocal statements, the Court finds it appropriate to dismiss his claims with prejudice.

IT IS FURTHER ORDERED that De Quan Lu claims are dismissed without prejudice for failure to prosecute. At the hearing, Ms. You confirmed that Mr. Lu has failed to respond to her repeated attempted contact, made by both phone and text message. Accordingly, the Court finds it appropriate to dismiss his claims without prejudice.

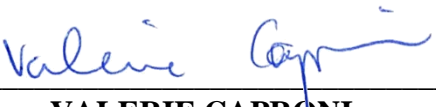
IT IS FURTHER ORDERED that Wei Qin Zhu claims are dismissed without prejudice for failure to prosecute. At the hearing, Ms. You explained that she spoke with Mr. Zhu who conveyed to her that he wished to discontinue the lawsuit. Following the Court's Order to speak again with each of her clients, Ms. You reported that Mr. Zhu told her that he wanted to speak about the matter with co-Plaintiff De Quan Lu. Ms. You reports that following that conversation, Mr. Zhu failed to respond to her repeated attempts at further contact, made by both phone and text message. Accordingly, the Court finds it appropriate to dismiss Mr. Zhu's claims without prejudice.

IT IS FURTHER ORDERED that by no later than **Friday, June 18, 2021 at 5:00 P.M.**, Ms. You must file an affidavit with the Court that outlines her prior attempts to contact Qi Gui Guo, the remaining Plaintiff. The affidavit must include the date and time of each attempted contact and the method of attempted contact (phone call, text message, or other form of communication). The Court will then determine whether it is appropriate to dismiss Mr. Guo's claims.

The Clerk of Court is respectfully directed to terminate Plaintiffs De Quan Lu, Dian Jin Jiang, and Wei Qin Zhu.

SO ORDERED.

Date: April 29, 2021
New York, New York



VALERIE CAPRONI
United States District Judge